

# EXHIBIT 10

**FISCAL AGENCY  
& FINANCIAL ADVISORY**  
AUTHORITY



# Section 204(a)

## CERTIFICATION

Act 10-2024

Enacted on January 10, 2024



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## I. INTRODUCTION

Act 10-2024 ("Act 10") amends Article 4 of the "Puerto Rico Net Metering Program Act", Act 114-2007, as amended, 22 L.P.R.A. § 1011 et seq., ("Act 114") to establish a new date for the Puerto Rico Energy Bureau ("PREB" or "Energy Bureau") to conduct the required study on net metering and energy distribution.<sup>1</sup>

This document should be considered, for all intents and purposes, compliant under Section 204(a) of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"), 48 U.S.C. §2144(2)(B).

## II. PURPOSE OF LEGISLATION

Pursuant to the Statement of Motives of Act 10, Act 114 was enacted in part to encourage residential and commercial customers of the Puerto Rico Electric Power Authority ("PREPA") to install and use photovoltaic equipment. The use of solar energy helps customers to become self-sufficient, while contributing to decrease the purchase of imported fossil fuels. Act 114 created a net metering program where customers receive compensation issued as credit for the excess electricity generated by their photovoltaic equipment. In recent years there has been an increase in the use of photovoltaic systems, not only due to the public policy that encourages its use, but also, because of the instability and high costs of the energy system. See Statement of Motives of Act 10 at 1-2.

Act 114 also ordered the Energy Bureau to conduct a study to evaluate and consider the costs and benefits associated with: (1) the net metering program, (2) distributed generation technologies, (3) small scale solar energy projects, and (4) energy storage systems. Under Article 4(a) of Act 114, the study was to be conducted within the five (5) years following the enactment of the "Puerto Rico Energy Public Policy Act", Act 17-2019, as amended, which took place on April 11, 2019. Act 10 amends Article 4(a) of Act 114 to delay the date for conducting this study. As per the new amendment introduced by Act 10, the study should not start before *January 2030*. See Article 4 of Act 10.

In addition, Article 4 of Act 114 specifies that after the conclusion of the above study, the Energy Bureau may issue a determination concerning the net metering program. Act 10 further amends this Article to now specify that (i) the current net metering policy stays in place while the study is being conducted and (ii) the current net metering policy stays in place for a period of not less than 12 months before the Energy Bureau implements any change to the net metering policy. Hence, the amendment provides that any new determination(s) arising from the Energy Bureau's study regarding the net metering program must wait at least a 12-month period before implementation. See *Id.*

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<sup>1</sup> Please note that although the first sentence of Act 10 indicates that it amends Article 9 of Act 114, the fact is that Article 9 has no amended provisions. At its origin, S.B. 1064 intended to significantly amend Article 9 of Act 114. However, the bill suffered many changes before its final approval and subsequent enactment. As a result of these changes, Article 9 of Act 114 remained unchanged.

### III. ANALYSIS AND ASSUMPTIONS

Act 10 does not impose new responsibilities for PREB that may be considered outside the ordinary course of its operations and does not entail an impact on the operational expenditures for said entity, or for any other public entities of the Government of Puerto Rico ("Government"), including PREPA.

As discussed above, the amendments made by Act 10 establish a new term for PREB to conduct the study on net metering and energy distribution previously mandated by Act 114. The primary modification made by the Act is to extend the current net metering policy and the timeline for the PREB study on a revised net metering policy. While the 2023 Certified Fiscal Plan for PREPA, certified by the Financial Oversight and Management Board ("Oversight Board") on June 23, 2023 ("PREPA's Certified Fiscal Plan"), includes target dates for conclusion of the study, it does not include or require a change to the current net metering law or policy. Act 10 still requires PREB to conduct the study, it just extends the date for doing so.<sup>2</sup>

It should be noted that pursuant to Act 57-2014, as amended, the Energy Bureau has the responsibility of regulating, supervising, and enforcing the public energy policy of the Government. As such, the provisions of Act 10 do not fall outside the previous responsibilities of PREB and do not represent out of the ordinary processes for said entity that would entail incremental costs in connection therewith. Therefore, it is reasonable to expect that expenses related to the implementation of Act 10, if any, would be minimal and covered with budgeted resources allocated for the operations of the Energy Bureau.

### IV. FISCAL IMPACT

As certified by the Office of Management and Budget ("OMB") and the Department of Treasury, the implementation of Act 10 is not expected to have any adverse impact on the Government's expenditures or revenues during the pertinent years covered by the 2023 Certified Fiscal Plan for Puerto Rico, as certified by the Oversight Board on April 3, 2023 ("Certified Fiscal Plan"). See Attachments A and B. Further, as discussed, PREPA and PREB shall implement Act 10 with budgeted resources.<sup>3</sup> The expense projections on PREPA's Certified Fiscal Plan are not expected to be impacted by the implementation of Act 10 – rather the law is expected to help PREPA achieve the projections and distributed generation ("DG") targets set forth.

Moreover, the extension of the current net metering policy will continue to support rooftop solar PV installation and capacity expansion in Puerto Rico. PREPA's Certified Fiscal Plan includes significant increases in DG capacity and production, which reduces the need for utility-scale generation and associated fixed and variable costs. Under the current net metering

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<sup>2</sup> As mentioned above, Act 10 amended Section 4(a) of Act 114, which previously stated that "study must be completed within five (5) years as of the effective date of the Puerto Rico Energy Public Policy Act," which was April 11, 2024.

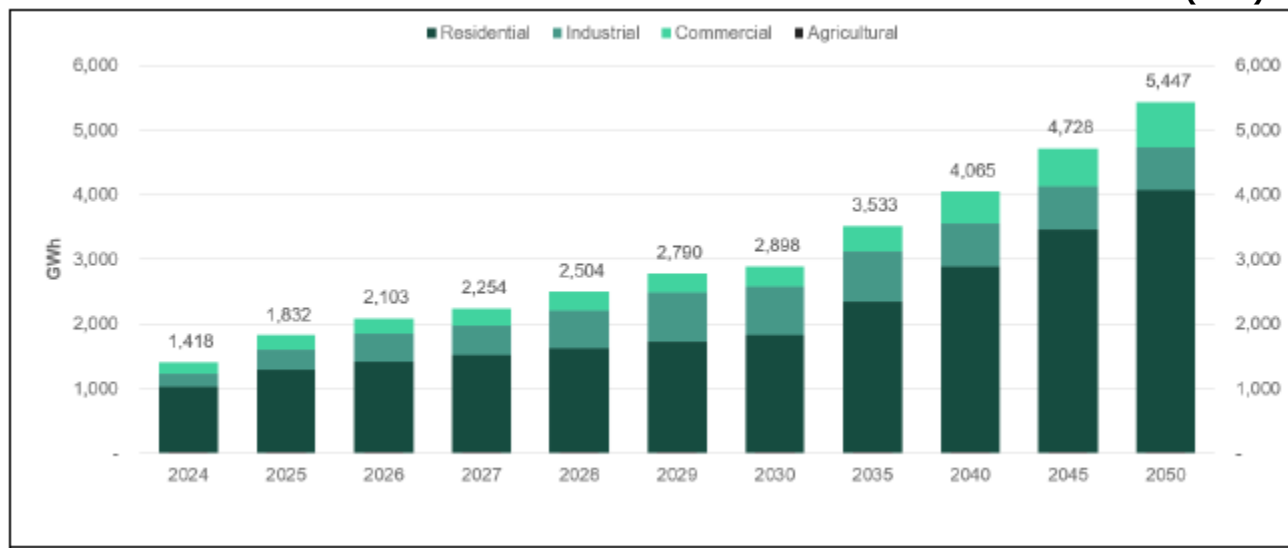
<sup>3</sup> Though not expected, should a reprogramming of budgeted resources be warranted, the Government will submit to the Oversight Board a formal request following the pertinent provisions of PROMESA and/or the applicable Certified Budget. No reprogramming of budgeted resources will be implemented without the Oversight Board's express approval.

compensation structure, the capacity of DG in the Puerto Rico system has so far met and slightly exceeded the level of DG in PREPA's Certified Fiscal Plan projection for FY2024.

According to reports from LUMA, from July to December 2023 approximately 150MW of new net metering rooftop solar PV was interconnected to the system.<sup>4</sup> PREPA's Certified Fiscal Plan projects an incremental increase of approximately 240MW of non-CHP renewable DG for FY2024, which suggests the current trend is on track with the fiscal plan. Thus, in order to continue adding rooftop solar PV in amounts consistent with PREPA's Certified Fiscal Plan, the economic incentive for customers must be continued. The impact of this extension of net metering policy on PREPA's Certified Fiscal Plan revenue and cost projections is expected to be neutral and will help reach the Renewable Portfolio Standard of 100% by 2050. Current ongoing initiatives and works will help to optimize the distributed generation resources adding flexibility to the existing system. These initiatives include utility scale energy storage, new Energy Management System, Advanced Metering Infrastructure, new generation peaking units, among others.

PREPA's Certified Fiscal Plan load forecast fully deducts expected DG production from load to calculate Net Utility Sales, used as the input for the denominator to calculate the Overall Required Rate \$/kWh, and there are no projected revenues from DG customers. This treatment assumes that DG customers are not required to pay for any portion of the utility revenue requirement unless there is energy consumption in excess of the DG customers' behind-the-meter production (i.e., positive net consumption). Thus, PREPA's Certified Fiscal Plan assumes that the existing net metering policy and bill credit structure remains in place.

**PREPA's Certified Fiscal Plan – Exhibit 39: 30-Year Distributed Generation Forecast (TWh)**



Accordingly, as certified by the OMB, Act 10 will not have an adverse impact on the Fiscal Year 2024 Certified Budget for the Government of Puerto Rico, the Fiscal Year 2024 Certified Budget for PREPA, both as certified by the Oversight Board as of June 30, 2023, or on upcoming certified budgets for the fiscal years covered by the Certified Fiscal Plan and by PREPA's Certified Fiscal

<sup>4</sup> See NEPR-MI-2019-0016 —Motion Submitting LUMA's Interconnections Progress Report for October through December 2023 and Report Presentation [January 16, 2024].

Plan. Thus, Act 114 is not significantly inconsistent with the provisions of the Certified Fiscal Plan and PREPA's Certified Fiscal Plan.

## **V. DETERMINATION OF COMPLIANCE OR NON-COMPLIANCE WITH THE CERTIFIED FISCAL PLAN**

After conducting the pertinent analysis and based on the discussion above, in accordance with Section 204(a) of PROMESA, the Government has determined that Act 10 is not significantly<sup>5</sup> inconsistent with the Certified Fiscal Plan. As mentioned above, Act 10 does not represent an adverse impact on the Government's revenues and expenditures and does not impose any additional burdens or responsibilities on PREPA, or any other Government entity like PREB. More importantly, the implementation of Act 10 (in particular, the extension of net metering policy) as compared to PREPA's Certified Fiscal Plan revenue and cost projections is expected to be neutral and will help reach the Renewable Portfolio Standard of 100% by 2050.

## **VI. REPORTS**

- Attachment A (Office of Management and Budget certification)
- Attachment B (Department of the Treasury certification)

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<sup>5</sup> The word "significant" conveys a degree of importance equal to or greater than "material." See *Markel Am. Ins. Co. v. Veras*, 995 F. Supp. 2d 65, 75 n.5 (D.P.R. 2014) (noting that Black's Law Dictionary defines "material" as "significant"); MATERIAL, Black's Law Dictionary (11th ed. 2019). Determining whether a misleading statement is material is a fact-specific inquiry. See *Basic Inc. v. Levinson*, 485 U.S. 224, 240 (1988).